

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HERBERT FEINBERG,

Plaintiff,

-v-

NATHANIEL F. LAND, SANGITA SHAH, SOUTH
DALE MABRY STORAGE, and CORPORATION
SERVICE COMPANY,

Defendants.

19-CV-3410 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

On September 20, 2020, Defendant Sangita Shah informed the Court that Plaintiff Herbert Feinberg, who was proceeding without counsel, passed away on September 6, 2020. *See* ECF No. 52. No later than **September 28, 2020**, Defendant Shah is hereby ORDERED, in accordance with Rule 25(a)(1) of the Federal Rules of Civil Procedure, to mail a Statement of Death and a copy of this Order to Mr. Feinberg’s last known address and file proof of such service with the Court. *See, e.g., Yates v. Smith*, No. 9:17-CV-1227 (LEK) (ML), 2019 WL 4508929, at *1 (N.D.N.Y. Sept. 19, 2019).

In accordance with Rule 25(a), a motion for substitution of the proper party must be filed **within ninety days of service of the Statement of Death** “by a party or by [Mr. Feinberg’s] successor or representative.” Fed. R. Civ. P. 25(a)(1).¹ In the absence of such a notice, the case “must be dismissed” — and the Court will do so without further notice to the parties. *Id.*

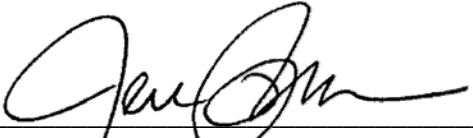
¹ The Court notes that any successor or representative who appears on behalf of the decedent may, depending on the circumstances, be required to appear through counsel in order to proceed. *Pridgen v. Andresen*, 113 F.3d 391, 393 (2d Cir. 1997) (“[A]n administratrix or

Seeing no reason to keep this case open pending the potential substitution of parties, the Court directs to Clerk of Court to administratively close the case. **If a motion to substitute pursuant to Rule 25(a)(1) is timely filed, the Court will reopen the action and resume consideration of Defendant Shah's motion to dismiss. See ECF No. 41. If no motion to substitute is filed by the deadline set forth in Rule 25(a)(1), then the case will be deemed dismissed pursuant to the Rule.**

In light of the foregoing, Ms. Shah's motion for a conference, ECF No. 52, is denied as moot. The Clerk of Court is directed to terminate 52 and administratively close this case.

SO ORDERED.

Dated: September 22, 2020
New York, New York



JESSE M. FURMAN
United States District Judge

executrix of an estate may not proceed *pro se* when the estate has beneficiaries or creditors other than the litigant.”); *see also Guest v. Hansen*, 603 F.3d 15, 21 (2d Cir. 2010).